IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 5TH SEPTEMBER 2007 / 14TH BHADRA 1929

Crl.MC.No. 4774 of 2003(B)

CC.5/2003 of CHIEF JUDICIAL MAGISTRATE, KASARAGOD
.....

PETITIONER: ACCUSED:

K.M.GOPALAN NAMBIAR, AGED 55 YEARS,
S/O. LATE NARAYANAN NAMBIAR, RADHAKRISHNAPURAM,
KUTTYATTUR P.O., TALIPARAMBA TALUK,KANNUR DIST.

BY ADV. SRI.GRASHIOUS KURIAKOSE

RESPONDENTS: STATE AND COMPLAINANT:
---

1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. SMT.SHOBHA, W/O. GANESH,
RAMYA NILAYA, H.NO.VII-748, MADHUR, KUDLU,
R.D. NAGAR, KASARAGOD TALUK.

BY PUBLIC PROSECUTOR, SRI AMJAD ALI
SRI.M.RAMESH CHANDER

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 05/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J.

~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~

Crl.M.C.No.4774 of 2003-B

~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~

Dated this the 5th day of September, 2007

O R D E R

The petitioner has sought for getting quashed the proceedings initiated against him vide C.C.No.5/2003 with respect to the offence under Section 420 I.P.C.

2. The case of the complainant is that the petitioner/accused purchased truck bearing registration No.KL10-F/5985 from the complainant/second respondent, as per agreement executed on 04/10/2001, fixing the total purchase price for Rs.4,05,000/- and a sum of Rs.82,120/- was received by the complainant. It was agreed that the amounts due to the financier, that is, M/s.Sriram Investments Ltd. to which the vehicle was hypothicated shall be remitted by the petitioner. It is alleged that the complainant received notice from the financier and the petitioner further sold the vehicle to another person. Three blank cheques issued by the petitioner are in possession of the financier. It is the contention of the petitioner that at best the allegations could amount only to violation of contractual obligations and the proceedings under Section 420 I.P.C cannot be sustained.

3. On consideration of the facts of the case, I find that this is not a matter fit to invoke Section 482 Cr.P.C. All the same the petitioner may raise the above contentions before the court below and apply for discharge.

The counsel for the petitioner has sought for a direction to the court below that the petitioner may be exempted from personal appearance, as he is an aged person. The petitioner may apply before the court below for the same and the court may consider the case for exemption.

The Crl.M.C is disposed of accordingly.

K.R.UDAYABHANU,
Judge

ms